

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Coal Creek Mining & Manufacturing)
	Dist. 6, Map 137, Control Map 137, Parcel 18.00,) Campbell County
	S.I. 000)
	Farm Property)
	Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$4,056,000	\$ -0-	\$4,056,000	\$1,014,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 2, 2006 in Knoxville, Tennessee. The taxpayer was represented by Lewis S. Howard, Esq. The assessor of property was represented by staff members Clark Ford and Brandon Parten.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 12,869 acre tract of mountainous forestland located in a remote area of Campbell County along the Anderson County and Scott County lines. The primary land uses in the area are for mining and timberland. Subject property was previously strip mined and is now utilized for timber purposes. Subject tract is almost completely wooded and consists of a series of steep mountain ranges and hollows. Elevations range from approximately 1,500 feet to 3,500 feet. The vast majority of subject tract cannot be accessed by road. Access into the tract is very limited with only one partly paved narrow and winding road that extends from Caryville on the east up over a mountain into the small community of Round Rock. The road then extends several miles to S.R. 116. There are also some dirt roads that have been used as haul roads, but they are not usable in wet weather or without a four-wheel drive vehicle.

The taxpayer contended that subject property should be valued at \$2,316,400 or \$180.00 per acre. In support of this position, the testimony and written analyses of Dennis W. Kuykendall and William S. Broome, Jr., MAI were offered into evidence.

The taxpayer's first witness, Dennis W. Kuykendall is a forestry consultant. The assessor stipulated that Mr. Kuykendall qualifies as an expert in forestry management. Mr. Kuykendall essentially testified that he previously inventoried subject property in 1998 and

1999. After reviewing current aerial photos and other more recent data, Mr. Kuykendall concluded that the timber on subject property has a value of \$575.00 per acre.

The taxpayer placed primary reliance on the testimony and appraisal report prepared by Mr. Broome (exhibit 3). The assessor stipulated that Mr. Broome qualifies as an expert in the appraisal of property. Mr. Broome testified that in his opinion the highest and best use of subject property is for continued use for mining and timber. As summarized in his appraisal report, Mr. Broome analyzed nine (9) comparable sales and concluded that subject property had a raw land value of \$180.00 per acre or \$2,316,400.¹

The assessor contended that subject property should remain valued at \$4,056,000 or \$315.18 per acre. In support of this position, Mr. Ford introduced a spreadsheet summarizing a number of sales in Campbell, Scott and Morgan Counties. Mr. Ford stated that subject acreage was appraised like all other similarly graded woodland pursuant to the rural land schedule developed by personnel from the Division of Property Assessments. In addition, Mr. Ford testified that in his opinion subject property may possibly be suitable for residential development and the like in the future.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$2,316,400 in accordance with Mr. Broome's appraisal report.

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue. The administrative judge finds that Mr. Broome's appraisal was the most thorough and best substantiated evidence in the record. Moreover, the administrative judge finds that Mr. Kuykendall's testimony established that the assessor has not adequately accounted for the contributory value of the timber in arriving at his estimate of the value of the raw land.

The administrative judge finds that the assessor's equalization argument must be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and equalized by application of the appropriate appraisal ratio . . ." *Id.* at 1.

¹ Although Mr. Broome appraised subject property as of February 22, 2006, the value would have been virtually identical on January 1, 2005 which constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

In contending the entire property should be appraised at no more than \$60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more underappraised than average does not entitle him to similar treatment. Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not adequately indicated how the properties compare to his own in all relevant respects. . . .

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were underappraised . . ." Final Decision and Order at 3.

The administrative judge finds that subject property could possibly be suitable for other uses in the future. However, the administrative judge finds that January 1, 2005 constitutes the relevant assessment date. The administrative judge finds that because of the lack of access to this area and the access within the tract itself, there does not presently appear to be any potential for subdivision. The administrative judge finds any estimate of value based upon the possibility of such future development would be speculative in contravention of Tenn. Code Ann. § 67-5-601(a).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$2,316,400	\$ -0-	\$2,316,400	\$579,100

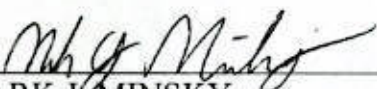
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of March, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Lewis S. Howard, Esq.
Billy Hicks, Assessor of Property